

## **REMARKS / DISCUSSION OF ISSUES**

The present amendment is submitted in response to the Office Action mailed September 27, 2010. Claims 1-12 remain in this application. Claims 1-3 and 5-21 have been amended. Claim 4 has been cancelled. In view of the amendments above and remarks to follow, reconsideration and allowance of this application are respectfully requested.

### ***Interview Summary***

Applicants appreciate the courtesy granted to Applicant's attorney, Michael A. Scaturro (Reg. No. 51,356), during a telephonic interview conducted on Friday, December 3, 2010. During the telephonic interview, a proposed amendment to claim 1 was found to be distinguishable over the cited art with the inclusion of a clause clarifying that the defective area is provided for data access protection. The Examiner indicated that while the cited art was overcome, a further search will be required.

### ***Allowable Subject Matter***

Applicant wishes to thank the Examiner for indicating that Claims 8 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Rejections under 35 U.S.C. §102(b)***

In the Office Action, Claims 1-7, 9-15 and 17-21 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,134,214 ("Takagi"). Applicant respectfully traverses the rejections.

As admitted by the Office during the telephonic interview of December 3, 2010, independent claim 1, as herewith amended, is patentably distinguishable over the cited reference, Takagi. More particularly, the cited portions of Takagi do not anticipate claim 1, because the cited portions of Takagi fail to disclose every element of claim 1. For example, the cited portions of Takagi fail to disclose or suggest,

1 A data carrier with at least one data recording area in which data recording area data are stored in accordance with a predefined data recording standard,

wherein the data carrier is **manufactured to include at least one defective area** designed to be embedded on the data carrier as one of a ring-shaped defective area or a sector-shaped defective area,

which defective area is **designed in such a way that it comes into conflict with at least one parameter of the predefined data recording standard**, as well as with **at least one defect localization area containing position information about the position of the at least one defective area on the data carrier**,

wherein the **at least one defective area is in conflict with the at least one parameter of the predefined data recording standard in such a way that the conflict cannot be rectified by standard-compliant error-correction measures in accordance with the data recording standard**,

wherein a **defect localization area is physically located before each defective area and provides information about the nature and position of the subsequent defective area**, and

**wherein the defective area is provided for data access protection.** [Emphasis Added]

Claim 1 has been amended in part to incorporate the subject matter of now-cancelled claim 4 to recite in relevant part:

wherein the at least one defective area is in conflict with the at least one parameter of the predefined data recording standard in such a way that the conflict cannot be rectified by standard-compliant error-correction measures in accordance with the data recording standard,

In addition to incorporating the subject matter of now-cancelled claim 4, claim 1 has been further amended to more clearly and precisely recite that the defective area becomes defective during the manufacturing stage by design, whose shape can be either a ring-shape or sector-shaped defective area. Claim 1 recites in relevant part:

wherein the data carrier is manufactured to include at least one defective area designed to be embedded on the data carrier as one of a ring-shaped defective area or a sector-shaped defective area,

Claim 1 has been further amended to more clearly and precisely recite that in addition to the one or more defective areas on the disc, there is also a defect localization area on the disc that contains information about the position of the defective area on the data carrier. See Figs. 1 and 2 of Applicant's published drawings.

wherein a defect localization area is physically located before each defective area and provides information about the nature and position of the subsequent defective area, and

Finally, Claim 1 has been further amended to more clearly and precisely recite that the defective area is provided for data protection.

wherein the defective area is provided for data access protection

It is respectfully submitted that Takagi does not disclose any of the above features of claim 1. Instead, Takagi merely discloses an optical disc defect management method having a sector structure and associated reproducing apparatus. The method generally comprises the steps of: (1) a user instructing a host computer to write data to an optical disc. In the case of a write command from the user, a target address of the sector to which data is to be recorded is obtained from a primary defect list PDL and a secondary defect list, SDL. (2) Data is then recorded to the sector at the target address. (3) A verification process is performed to determine whether data was normally recorded to the intended target sector. In the case where the verification process determines that the target sector cannot be reproduced (i.e., determined to be a defective sector), the procedure steps to (4) a substitution process using either a slipping method or linear replacement method.

It is therefore respectfully submitted that none of the recited steps of Takagi relate to a data carrier with at least one data recording area, where data is stored in accordance with a predefined data recording standard, and at least one defective area is embedded in a manufacturing step. Whereby the defective area is designed in such a way that it comes into conflict with at least one parameter of the predefined data

recording standard, as well as with at least one defect localization area containing position information about the position of the at least one defect area on the data carrier. Hence, Applicants respectfully submit that claim 1 is allowable.

Claims 2-3, 5-7 and 9-10 depend from independent Claim 1 and therefore contain the limitations of Claim 1 and believed to be in condition for allowance for at least the same reasons given for Claim 1 above. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) and allowance of Claims 2-3, 5-7 and 9-10 is respectfully requested.

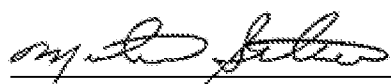
Independent Claims 11 and 18 recite similar subject matter as Independent Claim 1 and therefore contains the limitations of Claim 1. Hence, for at least the same reasons given for Claim 1, Claims 11 and 18 are believed to recite statutory subject matter under 35 USC 102(b). Claims 12-15 and 17 are allowable, at least by virtue of their respective dependence from claim 11. Claims 19-21 are allowable, at least by virtue of their respective dependence from claim 18.

### **Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-3 and 5-21 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Mike Belk, Esq., Intellectual Property Counsel, Philips Electronics North America, at 914-333-9643.

Respectfully submitted,



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